

REMARKS

The Applicant has amended claims 4 and 29. Claims 30-32 have been added and no claims have been cancelled. Accordingly claims 1-22 and 28-32 are currently under consideration.

Support for the claim amendments and new claims can be found throughout the specification, including the claims as filed, and in particular, at page 3, line 15, and at page 7, lines 28-35. Claim 4 has been amended to change dependency on new claim 32. Claim 29 has been amended to correct dependency, as suggested by the Examiner. No new matter is believed to have been added.

Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. The Applicants expressly reserve the right to pursue prosecution of any presently excluded subject matter or claim embodiments in one or more future continuation and/or divisional application(s).

Restriction Requirement

The Examiner issued a restriction requirement for claims 1-22, 28 and 29 between the following five Groups as reproduced below:

- I. Claims 1-16 and 28-29 drawn to a peptide and vaccine comprising said peptide.
- II. Claims 17-19, drawn to a method of treating a disease, prostate cancer or breast cancer or ovarian cancer or uterine cancer or endometriosis or uterine fibroids or precocious puberty.
- III. Claim 20, drawn to a method of controlling fertility.
- IV. Claim 21, drawn to a method of controlling the heat cycle or method of contraception.
- V. Claim 22, drawn to a method of contraception.

In response, the Applicant hereby elects Group I, Claims 1-16 and 28-29 (and claims 30-32, which read on the elected group) without traverse. In the event that the Examiner requires an elected species, Applicant hereby elects GPRLGYSWHEC (SEQ ID NO:2) wherein all the amino acids are D-amino acids, as claimed in claim 5 of the present application. Group I elected claims 1-16 and 28-29, and new claims 31-32 are readable on this species.

The Applicant submits that the present claims are distinct and non-obvious over the cited art (Mathias and Hervé). Applicant notes that the present claims are directed toward the retro-inverso form of the GnRH peptide (pyroGlu-His-Trp-Ser-Tyr-Gly-Leu-Arg-Pro-Gly CONH₂, abbreviated EHWSYGLRPG), *not* GPRLGYSWHE as stated in the restriction requirement.

The Applicant notes that to the extent that the Examiner is requesting an election of species, upon allowance of claims directed to the elected species, the generic claims should also be considered for allowance. Applicant further notes that should the product claims of Group I be found allowable, any withdrawn process claims (Groups II, III, IV, and V) that depend from or otherwise include all the limitations of the patentable product claims should be rejoined in accordance with the provision of MPEP § 821.04.

The Applicant expressly reserves the right under 35 U.S.C § 121 to file divisional applications directed to the non-elected subject matter during the pendency of this application, or an application claiming priority from this application.

The Applicant respectfully requests examination of the claims on the merits. If it is deemed that a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

CONCLUSION

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Attorney Docket No. 638772009900. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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